CHAPTER VIII

Divorce

As we saw in the previous chapter dealing with sex and religion, the birth of a child is regulated by the Georgian Highlanders with rigid rules prescribed by custom, which are not only painful and hard for a woman to execute, but which also endanger her very life. In spite of this, not only does bearing a child give a married woman an esteemed position in the social group, but all her happiness in the married state depends upon her maternal abilities. If a woman is sterile, neither her personal qualities nor her affection for her husband can preserve her married life, and the consequence is divorce.

The main cause for divorce among all groups of the Georgian Highlanders is sterility of the woman, but of equal importance is the case of women who bear only female children. There have been other motives leading to divorce. Thus the separation of a married couple could take place either by the mutual consent of husband and wife, or by the initiative of one party only, on the ground of personal dislike of the other or the breach of conjugal fidelity—adultery—which was regarded as a crime and resulted in the legal prosecution of the culprit. It should be noted that the right to initiate a divorce was in the hands of the husband and was denied to women.[1] If a woman took the first steps in a divorce proceeding, this was regarded as the criminal act of desertion and was prosecuted as such by the husband. There was always ground and a cause for the breaking up of families, and usually after children were born nothing but adultery on the part of the wife forced her to leave her husband.

In every case of divorce there were customary rules regulating the settlement of property between the separating parties.

The custom of divorcing one's wife for sterility, or when she bore only female children, was practiced by all groups of Georgian

[1] Kizanashvili: 131; Radde: d, 89.

6: Grigolia E-4, 5 (no date) 1939 RI1 Georgia RI1

Highlanders and was based on the dread of remaining childless, especially without male descendants, which attitude, as we have said, had a religious, social, and economic foundation. We may even suppose that this custom was universally practiced by all groups of the Georgian nation, because we find it still in use among the Georgians of the Lowlands. Thus, for example, I knew one such case which took place, not in the secluded mountain regions of Khevsuria or Svanetia, but in one of the leading towns of Megrelia, in a harbor-town of the Black Sea which boasted such civilizing influences as high schools, libraries, motion picture theatres, etc. One of the citizens, Mr. A, was regarded by everyone as an honest and upright man. He lived for many years a happy conjugal life with his wife, but they had no children, so Mr. A took another wife who lived in a village about 40 miles away. By his second wife Mr. A had two children, a boy and a girl. They were of about school age when their mother became ill and died. After this Mr. A brought the children to his home in town to his first wife, who accepted the children as if they had been her own. This case was known to almost everyone in the town and was not regarded as something unnatural or deserving of condemnation.

The great significance of a son in the family makes it easy to understand why the custom prevailed of giving a Georgian Highlander full right, when his wife was sterile or if she bore only daughters, to "try his luck," as they say, and take another wife. "Unfruchtbarkeit des Weibes ist Grund zum Verlassen," writes Dr. G. Radde[3] in discussing the question of divorce among the Khevsurs. Thus, for example, a Pshav could in the same circumstances either divorce his first wife, or, if he was attached to her, allow her to stay in the house and with her consent take another wife. If the "luck" was favorable and he had sons by his second wife, they were regarded as legitimate heirs and possessed full inheritance rights. On their side, they were obliged to honor and love their father's first wife as their own mother; that is, they were obliged to take care of her material needs and provide all necessary expences for her burial and funeral ceremonies.

[3] Radde: d, 89; also Zisserman: 221.

6: Grigolia E-4, 5 (no date) 1939 RI1 Georgia RI1

000 necessary expenses for her burial and funeral ceremonies. Al-
● 586 though if all the children were daughters and the husband was not
597 willing to divorce his first wife (who in her turn might not consent to his second marriage), there was a way out of the difficulty by using the custom of adoption, either of a grandson, the son of a married daughter, or even the latter's husband—the son-in-law—who, after adoption, was regarded as the legitimate son and heir of the family and was called *zedsidze*. This custom was practiced by all groups of the Georgian Highlanders with the exception of the Svans, who adopted only relatives, near or distant, and any stranger, even the husband of an only daughter, acquired no rights of inheritance or as a legitimate son.[3]

586 If the first wife did not wish to remain in the home of her
[597] husband together with the new wife, preferring to return to her parents, or if the husband did not wish to keep her, he had full right, according to custom, to send his first wife back to her parents. In doing this the husband was required to arrange the property settlement with his divorced wife according to customary rules which have a striking similarity to the laws of ancient Babylonia.[4] Thus, in the section of the Code of Hammurabi which deals with divorce we read in No. 138: "If a man has put away his bride who has not borne him children, he shall give her money as much as her bride-price, and shall pay her the marriage portion which she brought from her father's house, and shall put her away." In the same manner as the ancient Babylonians, when the Georgian Pshav[5] divorced his wife he was obliged to return her personal property to her (the *sathavno*) in full, but he was also required by custom to give her an additional compensation consisting of five cows or their equivalent—fifty rubles—called *samtsunebro*, meaning in the Georgian, "for rejecting." The *samtsunebro* payable by a Tush in similar circumstances consisted of a certain number of sheep.[6] The Khevsur's divorced wife[7] re-

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[3] Kovalevsky: a, II, 4.
[4] Hobhouse: I, 179-80; also Harper: 49.
[5] Khizanashvili: 131; Eristov: 113; Kovalevsky: a, II, 90.
[6] Khakhanov: 2, 52-53.
[7] Kovalevsky: a, II, 115.

6: Grigolia E-4, 5 (no date) 1939 RI1 Georgia RI1

ceived indemnity from her husband in a certain number (heads) of cows, in the same amount and way as the widow returning to her parents' home after her husband's death. For each year of her married life, the husband was required to give her one cow, excepting the first year which was not taken into account; so that for ten years of married life the divorced wife received nine cows; for five years, four cows, etc. The first year was not counted because most of this time was passed by the woman at the home of her parents, according to the customs of marriage.

Such cases of divorce as those just stated, where more than one wife could be present in the family, are responsible for the erroneous opinions expressed by some investigators[8] who wrote about the practice of polygamy among the Georgian Highlanders. This error has been noticed by Dr. G. Radde, who brought this question into discussion in his German work, "Die Chewsuren und ihr Land."[9] and disputed the presence of polygamy among the Khevsurs.

Besides woman's sterility and the bearing of only female children, the Georgian Highlanders permitted divorce on the ground of personal dislike between husband and wife, where the husband drove out his wife whom he did not like, or the wife deserted her spouse when she could not get along with him. When the husband put away his wife, he was required—according to the custom of the Khevsurs, Pshavs, and Tushes, as we have mentioned—to pay a fixed amount of indemnity, called *samtsunebro*. But when the divorce was initiated by a woman, her parents were required to pay the deserted husband eighty rubles or its equivalent in nature; otherwise she had no right to marry again. The payment of this indemnity, which was usually made with cows, sheep, domestic utensils, etc., made a woman legally free to venture upon a second marriage.

Among the Svans, when a married couple parted with the mutual privilege of concluding a new marriage, such a divorce was called *litsevra*. And when a husband was the initiator of the divorce and his wife was not guilty, he was requested to return the

[8] Eristov: 112-113.
[9] Radde: d, 98-90.

6: Grigolia E-4, 5 (no date) 1939 RI1 Georgia RI1

dowry of the woman and in addition to pay an indemnity to her relatives, which usually was equal to half the amount of the blood price, called *tsor* by the Svans. This custom of the Svans is similar to the old law of King George V of Georgia, which is included in the Georgian Code of King Vakhtang VI, the law dealing with "Wife Desertion," which reads: "He who deserts his wife without cause, and it shall appear that though she was not at fault in anything yet he has separated from her innocent, shall pay half *wergild* according to her rank."[10] But in case a Svan woman deserted her husband of her own will, then her relatives paid him the same amount of indemnity, the half of *tsor*, and returned the bride-price (*nachvlash*) to him.[11]

The other motive of divorce among the Georgian Highlanders was the breach of conjugal fidelity—adultery committed by a woman, which was not only punishable with divorce, but was also regarded as a serious crime. In past times, the Tushes,[12] Pshavs,[13] and Khevsurs[14] mutilated the adulterous wife and in such a state sent her back to her parents. The mutilation consisted in ripping the woman's cheeks, or cutting off her nose, ears, and even her hands. Thus, for example, Dr. G. Radde tells of a woman being mutilated in such a way who was living in the village of Blo when he visited Khevsuria. "Untreue der Frau," writes Dr. Radde,[15] "wurde frueher durch Ohren—und Nasen—Abschneiden bestraft. Im Dorfe Blo kann man jetzt noch eine in dieser Weise verstummelte Frau sehen, auch das Wangenzerschneiden is ueblich fuer diese Suende."

But there was also a custom among the Khevsurs,[16] when the offended husband was unwilling to punish his guilty wife by mutilating her, he sent her home to her parents and prohibited her for a certain length of time from marrying again. This prohibition was called *ivstila*.

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[10] Wardrop: 619.
[11] Kovalevsky: a, II, 50-51.
[12] Khakhanov: a, 52.
[13] Khizanashvili: 131.
[14] Radde: d, 90.
[15] Radde: *ibid.*
[16] Zisserman: 250.

6: Grigolia E-4, 5 (no date) 1939 RI1 Georgia RI1

The Svans did not follow the practice of the Khevsurs, Pshavs and Tushes in punishing an adulterous wife by mutilation. On the contrary, the husband was responsible to his wife's kinsmen for any abuse which she might suffer. The offended Svan husband had the right to send his guilty wife away and recover from her relatives the bride-price (*nachvlash*) paid by him, with an additional indemnity for his dishonor which was equal to half of the blood-price (*tsor*).[17]

[17] Kovalevsky: a, II, 37, 50.

6. Grigolia E-4, 5 (no date) 1939 RI1 Georgia RI1

422 The individual property rights of Georgian women are strikingly similar to the property rights of women in Egypt, where the woman's property "remains generally at her disposal, and she retains in contracts the right to leave her husband and to keep her property together with the bride gift."[8]

422 428 Among the Svans,[9] the wife is the sole proprietor of her dowry and without her consent no part of it can be alienated. If arable land forms a part of the dowry, the husband has a right to make use of it only with the permission of his wife. He is nothing more than a caretaker of her property, and not her master and lord.

The property of a woman is inherited by her children. If it is not large, the only inheritor is her daughter; in the contrary case it is divided among all her children, male and female. The woman may lend her capital to a stranger at interest, and to members of her family as well. They are obliged to return it to her. If a woman dies childless, her property belongs to her parents; if they refuse to accept it, it goes to her husband.

● 586 589 In case of a divorce, if it is not the result of adultery, she receives her *sathavno* in full, which represents her life's security. She receives also an additional compensation.[10] The widow had full right to stay in the home of her deceased husband, or could return to her parental home, in which case she received her *sathavno* in full from the relatives of her dead husband.

Interesting facts concerning the property rights of the Georgian woman are given by E. Gabasvili[11] in an article printed in the Georgian journal, "Iveria."

2. Group Ownership—

421 After the discussion of individual property rights of the Georgian Highlanders, we shall review the question of group ownership. We find it expressed in the communal ownership of pasture grounds and forests and religious property.

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[8] Hobhouse: I, 183.
[9] Kovalevsky: a, II, 50.
[10] See "Divorce."
[11] Gabashvili.